SUPREME COURT OF ILLINOIS

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November 26, 2019

In re: People State of Illinois, respondent, v. Joseph M. Coffman, petitioner. Leave to appeal, Appellate Court, Fourth District. 125217

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 12/31/2019.

Very truly yours,

Carolyn Taft Grosboll

Clerk of the Supreme Court

Appendix A

2019 IL App (4th) 170115-U

NO. 4-17-0115

FILED
July 25, 2019
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Pike County
JOSEPH M. COFFMAN,	)	No. 14CF61
Defendant-Appellant.	)	
	)	Honorable
	)	Diane M. Lagoski,
	)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Justices Steigmann and Cavanagh concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed defendant's conviction for first degree murder, finding the trial court did not err in (1) denying his motion to suppress, (2) denying his request for an involuntary manslaughter instruction, and (3) sentencing him to 45 years in prison.

¶ 2 In October 2015, a jury found defendant, Joseph M. Coffman, guilty of first degree murder. The trial court sentenced him to 45 years in prison.

¶ 3 On appeal, defendant argues (1) the trial court erred in denying his motion to suppress, (2) the court erred in denying defense counsel's request for an involuntary manslaughter instruction, and (3) his 45-year sentence is excessive. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In July 2014, the State charged defendant by information with one count of first degree murder (720 ILCS 5/9-1(a)(1) (West 2012)), alleging he, without lawful justification and

Appendix B

with the intent to do great bodily harm to Dennis Coffman, stabbed Dennis multiple times with a knife, thereby causing Dennis's death. Defendant pleaded not guilty.

¶ 6 A. Motion to Suppress

¶ 7 In July 2015, defendant filed a motion to suppress evidence pursuant to section 114-11 of the Code of Criminal Procedure (725 ILCS 5/114-11 (West 2014)). In the motion, defendant stated he was arrested in connection with Dennis's murder on July 19, 2014. On July 21, 2014, defendant made statements in response to interrogation by members of the Pike County Sheriff's Department. Having been informed of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), on July 19, 2014, defendant asserted his right to remain silent. The statements sought to be suppressed were obtained as a result of interrogation that continued after defendant elected to remain silent. Defendant argued all questioning should have ceased immediately and the police later reinitiated questioning in violation of *Miranda*. Thus, he claimed any statements made were involuntary and should be suppressed.

¶ 8 In its written response, the State agreed defendant invoked his right to remain silent on July 19 and made further statements to the police on July 21. However, the State contended defendant specifically requested to talk to the police after initially invoking his rights. Further, the State noted defendant only made statements on July 21 after being fully advised of his rights and making a knowing, voluntary waiver of his rights.

¶ 9 At the hearing on the motion to suppress, Michael Lister, a correctional officer at the Pike County jail, testified defendant asked to speak with Deputy David Greenwood on July 21, 2014. Lister then contacted Greenwood.

¶ 10 Pike County Sheriff's Deputy David Greenwood testified he was on duty on July 21, 2014, when he told Lister to contact him if defendant needed anything. Greenwood went

home and then received a call from Lister stating defendant wanted to talk to him. Greenwood returned and met with defendant. The entire encounter between defendant and Greenwood was videotaped. Greenwood stated he read the *Miranda* warnings to defendant and had him sign a form documenting his rights. Greenwood believed the interview lasted between 45 and 50 minutes.

¶ 11 On cross-examination, Greenwood testified defendant was shackled when he was brought into the interview room. After asking for cigarettes, defendant was allowed to smoke in the room. When Greenwood asked a question about the case, defendant said he did not want to talk without a lawyer. Greenwood then asked defendant what he wanted to talk about, and defendant "just started talking" about religion, his family history, and "all kinds of stuff."

¶ 12 The parties stipulated two special agents of the Illinois State Police attempted to interview defendant on July 19, 2014, they advised him of the *Miranda* warnings, and defendant indicated he did not wish to speak with them. The parties also agreed to have the trial court watch the videotaped interview.

¶ 13 In the videotape, Greenwood informed defendant they were being recorded, read him his *Miranda* rights, and told him to sign the waiver-of-rights form if he understood his rights. Defendant signed the form. Greenwood asked defendant how he had been treated, and defendant said he had not yet taken a shower. Greenwood stated he would talk to someone. He then stated Dennis's mother, Diana Harris, wanted defendant to know she and the family were not mad at him. Shortly thereafter, Greenwood asked defendant what he wanted to talk about. Defendant stated he wanted to talk about Dennis's children. Greenwood stated he had talked to the family, including Skippy Coffman, who "thinks a lot about" defendant.

¶ 14 Greenwood then stated he listened to the 9-1-1 calls defendant made and indicated his concern as to whether the offense occurred in Illinois or Missouri. Defendant stated he "didn't want to get into that" and he wanted to see a lawyer before he talked about it. Greenwood said "okay" and asked defendant if there was anything else he wanted to talk about. Defendant apologized for getting Greenwood's "hopes up," but Greenwood dismissed the concern and mentioned he had simply been told defendant wanted to talk with him and wanted to get off suicide watch.

¶ 15 Defendant stated he was having trouble "feeling," and Greenwood asked how he could help. Defendant said he wanted to talk to somebody, and Greenwood stated he could see about getting someone to come talk to him and that he was there for him. When defendant did not respond, Greenwood suggested defendant ask questions. Defendant asked if Dennis's wife was mad, and Greenwood said there were tears but the family was not mad. Greenwood asked defendant if he wanted something to drink, and after some thought, defendant stated he "would kill for a cigarette right now." Greenwood offered to try to find one and defendant laughed. Greenwood left and returned with a can of pop. Shortly thereafter, an officer delivered a pack of cigarettes to the room, and defendant smoked as he talked.

¶ 16 Greenwood mentioned defendant's Native American heritage, and defendant stated he was Apache and talked about his heritage. Defendant stated he felt "lost." When asked why, defendant stated he had "so much hatred." Defendant said he hated people that gave him "looks" and people that judge, play mind games, and are "two-faced." Defendant then discussed the incident for the remainder of the conversation.

¶ 17 In its written ruling, the trial court found it undisputed that defendant invoked his fifth amendment rights on July 19, 2014, in the first attempt by the state police to interview him.

The court found Greenwood spoke with defendant on July 21, 2014, and told him he could ask to speak with him if he needed anything. Defendant later asked to speak with Greenwood. After Greenwood returned and read the *Miranda* warnings to defendant, they began conversing. Within five minutes, Greenwood began questioning defendant as to whether the incident took place in Missouri or Illinois. The court stated defendant indicated he "did not want to get into that and that he wanted to see a lawyer before getting into that." Greenwood responded by asking defendant what he wanted to talk about. The court found Greenwood and defendant "discussed many topics including family, religion and the emotions that defendant was feeling." The court stated that, "[a]t some point, during the conversations about other matters, the defendant began discussing the incident in question without being prompted to by Greenwood."

¶ 18 The trial court found "defendant made a limited invocation of his right to an attorney when he indicated he did not want to speak to Greenwood about the night in question without an attorney." The court also found Greenwood did not seek information about the night in question after the invocation of the right to counsel and "[i]t was near the end of the interview that defendant at his own choosing began discussing the night in question." While "defendant did not affirmatively state a desire to continue speaking after his limited invocation of his right to counsel ***, his actions in continuing to speak and cooperate showed he was willing to do so." The court denied the motion to suppress.

¶ 19 B. Jury Trial

¶ 20 In October 2015, defendant's jury trial commenced. Pike County Sheriff Paul Petty testified he arrived on the scene of a reported stabbing on the interstate at approximately 1:17 a.m. on July 19, 2014. In a small truck, he observed an unresponsive Dennis slumped toward the passenger side. Petty also saw defendant patting Dennis's head and comforting him.

Defendant was immediately removed from the vehicle without incident. Petty stated defendant had blood on his hands, shirt, and pants.

¶ 21 Lisa Potter testified she worked as a 9-1-1 dispatcher in Marion County, Missouri, and received a call in the early morning hours of July 19, 2014. She stated a male called, "hysterical, telling me that he just stabbed his brother to death." The male told her he was calling from Missouri, but her global positioning system map told her the caller was in Illinois. Once she determined the caller was in Illinois, she transferred the call to Pike County, Illinois. The State played the 9-1-1 call for the jury.

¶ 22 Karen Ormond testified she was traveling with her husband and six-month-old child between Hannibal, Missouri, and Quincy, Illinois, on July 19, 2014, at approximately 1 a.m. As they traveled into Illinois, she observed a man "waving his arms" like "he was trying to get help." Ormond's husband stopped the car, and she asked the man, who was on the phone and "not speaking clearly," if he needed help. The man handed her the phone and asked her to give their location to the dispatcher. The man also told her "they needed the police and the ambulance" because "he had stabbed and killed his brother." Ormond stated the man "seemed very calm" and was "smoking a cigarette." Ormond made an in-court identification of defendant as the man on the phone. Ormond's husband drove forward and then turned around to face defendant's vehicle to "keep an eye on him."

¶ 23 Adams County Sheriff's Deputy Colby Yard testified he approached the scene and saw the passenger of a truck leaning over the center console "holding the driver's head up." Yard asked who stabbed the driver, and the passenger said " 'I did.' " Prior to taking the victim out of the truck, Yard noticed "a folding knife" with blood on it lying on the center console.

¶ 24 Illinois State Police Trooper Clint Nickel testified he searched defendant after he had been handcuffed. Nickel said defendant "seemed indifferent" but cooperative. Illinois State Police Trooper Timothy Lemasters, a crime-scene investigator, testified he found an orange folding knife with "a blood-like substance on it" inside the truck. He also observed "blood pooling on both the driver's seat and the passenger seat and across the center console. There was blood on the dashboard and on both windows." Lemasters collected items of defendant's clothing, which had a blood-like substance on them.

¶ 25 Amanda Humke, a forensic scientist with the Illinois State Police, testified as an expert in forensic deoxyribonucleic acid (DNA) and biology and stated she found blood on the knife and swabs from defendant's hands as well as his clothing. Karri Broaddus, a forensic scientist with the Illinois State Police, testified as an expert in DNA analysis. Comparing the blood on defendant's hands, a T-shirt, pants, and the knife with known samples from defendant and Dennis, Broaddus found they matched the profile from Dennis.

¶ 26 Tina Fry testified she had been living with Dennis in July 2014. Defendant, Dennis's half-brother, moved in with them in late June 2014. On July 18, 2014, Fry saw a knife on a patio table and knew it did not belong to Dennis. She took it inside, and when asked, defendant said it was his knife.

¶ 27 Raymond Nicosia testified he was at Down Under Lounge in Hannibal, Missouri, when his friend Dennis and defendant arrived. While there, Nicosia's friend asked defendant if he was Mexican. Nicosia said defendant "looked a little perturbed" and said he was " 'Indian.' " The group of four decided to walk to Sportsman's Bar across the street. While sitting at the bar when defendant had gone to the restroom, Dennis told Nicosia to ask defendant " 'about the directional fluid on the blinker system.' " Nicosia "didn't know about the joke" or what Dennis

meant. When defendant returned from the restroom, Nicosia "asked him about the directional fluid in the blinker system." Nicosia testified defendant "got a little perturbed by it" and said to Dennis, " 'You did this, you told him this.' " Dennis and defendant left at approximately 11:45 p.m.

¶ 28 Johnny Nichols, Nicosia's friend, testified he first met defendant at Down Under Lounge on July 18, 2014. After everyone had moved to Sportsman's Bar, Nichols and defendant had a conversation about their Native American heritage. Nichols stated he is Cherokee, and defendant "got a little mouthy" with him.

¶ 29 Elizabeth Campbell testified she owned Ole Milt's bar in Hannibal. She stated Dennis came into the bar "just before midnight" on July 18, 2014, and introduced her to his brother, defendant. Campbell stated defendant "didn't speak" and "barely looked" at her during the introduction. She also stated defendant "looked like he was mad at everybody" and "didn't speak much at all." Dennis ordered a drink and some hot wings, and defendant had three beers. While Campbell "could tell [defendant had] been drinking," she said he did not appear to be drunk. She thought they left between 12:30 and 12:40 a.m.

¶ 30 Skippy Coffman testified Dennis and defendant are her half-brothers. She visited defendant in jail in June 2015, and they discussed what happened on the night Dennis was murdered. Defendant mentioned "some of the issues" he was having with Dennis, including the belief that Dennis had raped defendant's half-sister, Michelle, in Arizona. On the night of the murder, a conversation arose in which "Dennis had replied to [defendant] that, well, you know Michelle, she was really loose."

¶ 31 On cross-examination, Skippy testified defendant had wanted to "get out of the life that he was living in Phoenix" and wanted to learn from and work with Dennis. But when

defendant arrived, "he felt that that didn't happen, and things started getting bad between him and Dennis as far as Dennis calling him stupid and retarded." Another issue involved defendant's "mental illness and diagnosis," and Dennis and Tina "were trying to support [defendant] in getting his social security and his food stamps." When Skippy talked about the night of the murder and defendant brought up the alleged rape by Dennis, Skippy testified defendant said " 'he pushed me to a point beyond.' "

¶ 32 Patricia Gauch, Dennis's sister and defendant's half-sister, testified she visited defendant at the jail on September 10, 2014. Although he initially said he did not want to talk about the murder, defendant "said he 'snapped.' " Defendant felt Dennis was " 'a piece of shit' " and he mentioned the alleged rape. Defendant also mentioned being paranoid and uncomfortable in the bar. Defendant stated he felt sorry for Dennis's children and Dennis's mother.

¶ 33 Sergeant Greenwood testified regarding the interview he conducted with defendant on July 21, 2014. A portion of the video was played for the jury. In the video, defendant stated he felt "lost" and had "so much hatred." Defendant mentioned the night in the bars with Dennis, as well as various confrontations he had with other patrons. Defendant felt Dennis "walked me into a fuckin' bar where everybody's talkin' shit about me because I'm different." Defendant thought Dennis "sold me out" by bringing him in the bar and telling them defendant is "this or that or something." Defendant stated as follows:

> "So I had an argument with him and it just started from there. The fuckin' anger came up and I felt like—you know, I told him, 'Hey, if anybody wants to test my chest or something, they want, you know, to see what I'm about, why don't they just fuckin' say so?' "

¶ 34 Dennis told defendant " 'it's cool' " and they left. Once outside, defendant said "[t]hat anger just came out and I took it out on him and it's fucked up." Dennis said, " 'No, stop, dude. No, don't please. What you doin' man? No.' " Defendant stated: "I stabbed him, you know, and like that vicious anger that my mind is tainted with, all that fuckin' evil hatred, and I hate myself."

> "[T]he shit seems to float my way, and I know I have a big problem with it. It's me. And I can't—I can't—I don't know how to deal with it, like people like that, except meet hate with hate. But I feel that like my hate can be bigger, my evil is bigger, but I'm a little guy, I'm a great guy. When I get this drunk and I can—I can turn—turn shoulder when I'm sober. I might get into a fight here and there. But when I'm drunk, it's like I'm more than—it's more than just throwing gasoline on a fire. It's like thrown' a fuckin' box of TNT sticks in a fire.
>
> * * *
>
> I was telling him why he hates me so much. He's just sitting there coughin' up blood and he's like, 'I don't hate you, I don't hate you. You're my little brother, man.'
>
> He's sitting there lookin' at me with these fuckin' eyes. I hurt him so bad and he's like, 'I don't hate you. I fuckin' love you, man. You're my little brother, man. You're my little buddy. Why would I hate you? I love you.' I'm like sittin' there and went 'fuck. I fuckin' killed my brother that fuckin' loved me.

There ain't no repairin' that."

Defendant told Sergeant Greenwood he would "like solitary confinement for the rest of my life." When asked if he wanted Greenwood to tell the family anything, defendant stated he would "spend eternity in hell" and would "spend eternity there to take back what I did." The conversation ended with handshakes between defendant and Greenwood.

¶ 35 Dr. Carl Stacy, a forensic pathologist, testified he conducted the autopsy on Dennis. Among the 16 separate stab wounds, Stacy observed a "sharp force injury" into the neck and "multiple sharp force injuries" in the upper chest. One of the chest injuries "went all the way through the sternum" and "into the right ventricle of the heart." Stacy also observed multiple defensive wounds on Dennis's body. Stacy opined the cause of Dennis's death was "[p]erforation of the right ventricle of the heart with compression of the heart." The trial court read an agreed stipulation that stated " 'the official cause of death was pericardial tamponade due to a stab wound of the chest.' "

¶ 36 In defendant's case, Skippy Coffman testified she works with people with developmental disabilities and mental illnesses. She knew defendant had a traumatic brain injury but had not received a diagnosis that would enable him to receive government benefits. She advised defendant that the partying and drinking "could not go on if he wanted help." Based on her conversations with defendant about him living with Dennis, she could tell "things were not going well." On cross-examination, Skippy testified her conversations with defendant took place around July 5, 2014, but prior to that date, she had not had any contact with defendant or Dennis in years.

¶ 37 Dr. Austin Hake, a neurologist at Quincy Medical Group, testified as an expert in neurology. He reviewed defendant's medical records from Arizona and evaluated him in

February 2015. In July 2010, defendant "suffered a traumatic brain injury that was described as moderate, which caused multiple fractures of the orbital region as well as the sinuses." A brain scan showed "residual scarring in the orbital frontal regions and basically the frontal part of the brain just above the eyes." Hake stated the frontal lobe is "the main area of the brain for decision-making" and it "helps to regulate emotion and also the ability to inhibit or stop an emotion that would be inappropriate for a certain social situation." Although defendant showed improvement at the time of an eight-month evaluation, he was advised to abstain from alcohol. Following the February 2015 neurological exam, Hake found defendant had "delayed processing speed," "seemed to have slowed speech," and had "some very mild memory impairment." Hake concluded defendant had "ongoing problems" and believed the 2010 brain injury could have impaired his ability to evaluate the consequences of his actions and control his impulses.

¶ 38 On cross-examination, Hake testified a large part of his findings were based on the information provided by defendant. While Hake stated he could not predict whether the brain injury caused defendant to act in a certain way, the injured area of the brain is well-known to involve emotional control and could "lower somebody's inhibitions and make something like this more likely to happen."

¶ 39 Defendant exercised his right not to testify. Following closing arguments, the jury found defendant guilty.

¶ 40 C. Posttrial Motions and Defendant's Sentence

¶ 41 In November 2015, defendant filed a motion for a new trial, arguing, *inter alia*, the State failed to prove him guilty beyond a reasonable doubt, the court erred in refusing to provide the jury with an instruction on involuntary manslaughter, and the court erred in denying his motion to suppress.

¶ 42 In December 2015, the trial court conducted the sentencing hearing. The State presented testimony from six of Dennis's family members as evidence in aggravation. In mitigation, the defense presented the testimony of defendant's half-sisters, Tanna Cornely and Skippy Coffman. Cornely testified defendant "is a very good boy" and "a good dad."

¶ 43 Skippy testified she observed signs of post-traumatic stress disorder (PTSD) in defendant and tried to warn Dennis about how to handle someone with those symptoms. On cross-examination, Skippy agreed she only had contact with defendant approximately two weeks prior to the murder.

¶ 44 The State argued in aggravation that defendant had an extensive criminal history involving violence, including (1) a tribal conviction on two counts of aggravated assault and one count of intoxication by a minor in 2004, (2) a tribal conviction for disorderly conduct in 2007, (3) a tribal conviction for criminal damage to property in 2007, (4) a tribal conviction on three counts of aggravated assault with a wooden pole in 2008, and (5) an Arizona conviction for aggravated assault involving a deadly weapon in 2010. There was also evidence that defendant had threatened to stab his half-sister, Tammy Coffman, to death in 2005, pulled out a knife on a drug dealer in 2010, and was the suspect in a 2011 stabbing.

¶ 45 Defense counsel argued in mitigation that defendant suffers from "multiple traumatic brain injuries" that affect his judgment, decision-making, and ability to control his emotions. Counsel also emphasized the hardship a lengthy incarceration would have on defendant's two children. Further, counsel stated defendant made "every effort to save Dennis" after the stabbing, consoled him, and tried to get help.

¶ 46 In his statement of allocution, defendant testified he is a "family man" who has "a drinking problem" and "tend[s] to get in fights." Defendant stated Dennis may have had "good

qualities," but he had sex "with his dad's wife," "date raped [defendant's] sister," and talked down to defendant "the whole time [he] was there." Defendant stated he had "remorse" and would take back his actions if he could.

¶ 47 The trial court noted defendant's conduct caused or threatened serious harm, he had a history of violent criminal activity, and a sentence was necessary to deter others. The court also considered defendant's daughters, his brain injury, and the cost of imprisonment to the State. The court found defendant is "a dangerous man[,]" and although it did not believe he set out to murder Dennis, it concluded "the risk to the public is great." The court sentenced him to 45 years in prison.

¶ 48 Defendant filed a motion to reconsider his sentence, claiming, among other things, the sentence was excessive, the trial court failed to consider the factors in mitigation, and the sentence was not in keeping with alternatives available to the court to assist him in his rehabilitation. In November 2016, defendant filed an amended motion for a new trial and an amended motion to reconsider the sentence.

¶ 49 In January 2017, defendant filed a *pro se* motion for ineffective assistance of counsel. At the hearing on the motions, the trial court considered defendant's claim of ineffective assistance of counsel under *People v. Krankel*, 102 Ill. 2d 181, 464 N.E.2d 1045 (1984), declined to appoint new counsel, and denied the motion. Thereafter, the court denied the amended motions. This appeal followed.

¶ 50 II. ANALYSIS

¶ 51 A. Motion to Suppress

¶ 52 Defendant argues the trial court erred in denying his motion to suppress his videotaped confession, claiming the police obtained his statement in violation of his

constitutional rights to remain silent and to counsel. We disagree.

¶ 53 Initially, we note the State argues defendant is procedurally defaulted from making his argument because he never argued in the trial court that he was subject to further interrogation or established Greenwood said or did something that was reasonably likely to elicit an incriminating response. See *People v. Hestand*, 362 Ill. App. 3d 272, 279, 838 N.E.2d 318, 324 (2005) (a defendant must object at trial and raise the issue in a posttrial motion to preserve the issue for review); see also *People v. Hayes*, 319 Ill. App. 3d 810, 819, 745 N.E.2d 31, 40 (2001) (stating the "[f]ailure to raise an error to the trial court with sufficient clarity and specificity results in forfeiture").

¶ 54 In his motion to suppress, defendant argued he asserted his right to remain silent on July 19 but the police reinitiated questioning on July 21. At the hearing on the motion, defense counsel argued any conversation between Greenwood and defendant should have ended when defendant indicated he did not want to talk about the murder. The prosecutor responded by arguing Greenwood had the right to ask defendant what he wanted to talk about and it was "defendant's choice" to return the conversation back to the events of the night in question. In his response, defense counsel argued Greenwood violated defendant's rights by continuing the conversation about defendant's family and background before it ultimately returned to the incident.

¶ 55 In denying the motion to suppress, the trial court found Greenwood did not ask questions about the murder, other than the one to which defendant indicated he did not want to talk about, and it was defendant who began discussing the incident "without being prompted to by Greenwood." In his posttrial motion, defendant argued the court erred in refusing to grant his motion to suppress, but the court disagreed.

¶ 56 We find defendant adequately presented his argument to the trial court to preserve this issue for appeal. The gist of defendant's argument is that once he invoked his rights under *Miranda*, all questioning from Greenwood should have ceased and, by not doing so, Greenwood continued to interrogate him and elicited incriminating responses from him in violation of his rights. As the record is sufficiently developed to address this issue, we decline to invoke forfeiture here. See *People v. Holmes*, 2016 IL App (1st) 132357, ¶ 65, 48 N.E.3d 185 (stating "forfeiture is a limitation on the parties and not the reviewing court").

¶ 57 In reviewing a motion to suppress on appeal, we are presented with mixed questions of law and fact. *People v. Terry*, 379 Ill. App. 3d 288, 292, 883 N.E.2d 716, 720 (2008). "[The] trial court's findings of historical fact are reviewed for clear error, giving due weight to any inferences drawn from those facts by the [court]." *People v. Harris*, 228 Ill. 2d 222, 230, 886 N.E.2d 947, 953 (2008). Great deference is accorded a trial court's factual findings, and those findings will be reversed only if against the manifest weight of the evidence. *People v. Cosby*, 231 Ill. 2d 262, 271, 898 N.E.2d 603, 609 (2008). Thus, we review the trial court's ultimate ruling as to whether suppression was warranted *de novo*. *Harris*, 228 Ill. 2d at 230, 886 N.E.2d at 954.

¶ 58 Where the admissibility of a confession is challenged, "the State bears the burden of proving the confession was voluntary by a preponderance of the evidence." *People v. Slater*, 228 Ill. 2d 137, 149, 886 N.E.2d 986, 994 (2008); see also 725 ILCS 5/114-11(d) (West 2014). "The concept of voluntariness includes proof that the defendant made a knowing and intelligent waiver of his privilege against self-incrimination and his right to counsel." *People v. Braggs*, 209 Ill. 2d 492, 505, 810 N.E.2d 472, 481 (2003).

¶ 59 The fifth amendment to the United States Constitution (U.S. Const., amend. V) and article I, section 10 of the Illinois Constitution (Ill. Const. 1970, art. I, § 10) provide individuals with a right against self-incrimination. In *Miranda*, 384 U.S. at 467, the United States Supreme Court found the fifth-amendment privilege against self-incrimination applied outside criminal court proceedings and "concluded that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely."

¶ 60 To combat those pressures, the Supreme Court held "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of [a] defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." *Miranda*, 384 U.S. at 444. Those safeguards include warning a suspect "that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." *Miranda*, 384 U.S. at 444. If during a custodial interrogation an "individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. *** [A]ny statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise." *Miranda*, 384 U.S. at 473-74.

> "However, in *Michigan v. Mosley*, 423 U.S. 96, 46 L. Ed. 2d 313, 96 S. Ct. 321 (1975), the Supreme Court clarified that *Miranda* did not create a *per se* proscription against any further questioning by any police officer, on any topic, once the suspect

> invokes his right to remain silent. [Citation.] Rather, the Court concluded that the admissibility of statements obtained after the defendant decides to remain silent depends upon on whether the defendant's ' "right to cut off questioning" ' was ' "scrupulously honored." ' [Citation.] In deciding this question, courts should consider whether (1) the police immediately halted the initial interrogation after the defendant invoked his right to remain silent; (2) a significant amount of time elapsed between the interrogations; (3) a fresh set of *Miranda* warnings were given prior to the second interrogation; and (4) the second interrogation addressed a crime that was not the subject of the first interrogation. [Citation.] The fact that the second interrogation addressed the same crime as the first interrogation does not preclude a finding that the defendant's right to remain silent was scrupulously honored." *People v. Nielson*, 187 Ill. 2d 271, 286-87, 718 N.E.2d 131, 142 (1999).

¶ 61 In this case, it is undisputed defendant invoked his fifth-amendment rights on July 19, 2014, when agents of the Illinois State Police attempted to interview him. On July 21, Deputy Greenwood had a conversation with defendant at the jail about defendant's well-being. Greenwood did not discuss the night of the murder but told defendant he could request to talk to Greenwood, if he so desired. Later that day, defendant asked to speak with Greenwood. After returning to the jail, defendant and Greenwood met in an interview room. In the videotape, Greenwood informed defendant they were being recorded, read him his *Miranda* rights, and told

him to sign the waiver-of-rights form if he understood his rights. Defendant signed the form. Greenwood asked defendant how he had been treated, and defendant said he had not yet taken a shower. Greenwood stated he would talk to someone. He then stated Dennis's mother, Diana Harris, wanted defendant to know she and the family were not mad at him. A short time later, Greenwood asked defendant what he wanted to talk about. Defendant stated he wanted to talk about Dennis's children. Greenwood stated he had talked to the family, including Skippy Coffman, who "thinks a lot about" defendant.

¶ 62 Greenwood then stated he listened to the 9-1-1 calls defendant made and asked whether the offense occurred in Illinois or Missouri. Defendant stated he "didn't want to get into that" and he wanted to see a lawyer before he talked about it. Greenwood stated "okay" and asked him if there was anything else he wanted to talk about. Defendant apologized for getting Greenwood's "hopes up," but Greenwood dismissed the concern and mentioned he had simply been told defendant wanted to talk with him and wanted to get off suicide watch.

¶ 63 Here, defendant's invocation of his right to remain silent was scrupulously honored. When Greenwood started questioning defendant about the murder and where it occurred, defendant stated he did not want to get into that and wanted to talk with an attorney before he talked about it. Greenwood did not continue questioning defendant about the murder. Instead, he asked defendant what he wanted to talk about, since it was defendant who requested to speak with Greenwood.

¶ 64 Defendant appears to contend that once he invoked his right to remain silent, Greenwood was required to immediately end the conversation and leave the room. "If a suspect indicates that he wishes to remain silent, the interrogation must cease." *People v. Winsett*, 153 Ill. 2d 335, 349, 606 N.E.2d 1186, 1194 (1992). However, while interrogation must cease, an

officer is not prohibited from further conversation with the defendant. See *Nielson*, 187 Ill. 2d at 286, 718 N.E.2d at 142 (citing *Mosley*, 423 U.S. at 102-03); see also *Edwards v. Arizona*, 451 U.S. 477, 484-85 (1981) (stating an accused, "having expressed his desire to deal with the police only through counsel, is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges, or conversations with the police").

¶ 65 In this case, Greenwood did not continue interrogating defendant about the murder. He did not confront him with evidence in hopes of drawing a confession out of defendant. Instead, he asked defendant what he wanted to talk about. Defendant stated he was having trouble "feeling," and Greenwood asked how he could help. Defendant said he wanted to talk to somebody, and Greenwood stated he was there for him. When defendant did not respond, Greenwood suggested defendant ask questions. Defendant asked if Dennis's wife was mad, and Greenwood said there were tears but the family was not mad. Greenwood asked defendant if he wanted something to drink, and after some thought, defendant stated he "would kill for a cigarette right now." Greenwood offered to try to find one and defendant laughed. Greenwood left and returned with a can of pop. Shortly thereafter, an officer delivered a pack of cigarettes to the room, and defendant smoked as he talked. Greenwood mentioned defendant being Native American, and defendant stated he was Apache and talked about his heritage. Defendant stated he felt "lost." When asked why, defendant stated he had "so much hatred." Defendant said he hated people that gave him "looks" and people that judge, play mind games, and are "two-faced." Defendant then discussed the incident for the remainder of the conversation.

¶ 66 The Supreme Court has defined "custodial interrogation" as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of

his freedom of action in any significant way." *Miranda*, 384 U.S. at 444. The Court later elaborated on the definition of "interrogation" by stating:

> "[T]he term 'interrogation' under *Miranda* refers not only to express questioning, but also to any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect. The latter portion of this definition focuses primarily upon the perceptions of the suspect, rather than the intent of the police. This focus reflects the fact that the *Miranda* safeguards were designed to vest a suspect in custody with an added measure of protection against coercive police practices, without regard to objective proof of the underlying intent of the police. A practice that the police should know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation. But, since the police surely cannot be held accountable for the unforeseeable results of their words or actions, the definition of interrogation can extend only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response." (Emphasis in original.) *Rhode Island v. Innis*, 446 U.S. 291, 301-02 (1980).

¶ 67 Defendant has not shown Greenwood's continued conversation with him was reasonably likely to elicit an incriminating response. He claims Greenwood "continued pushing"

and "repeatedly questioned" defendant. However, defendant cannot point to specific instances in which Greenwood later raised the issue of the murder in an attempt to draw a confession out of him. Greenwood did not return to the facts of the murder and ask defendant about the stabbing, where it occurred, or how it happened. Defendant chose to speak about a variety of matters unrelated to the murder, and questions by a police officer seeking clarification of those matters "[do] not always constitute interrogation." *People v. Peo*, 391 Ill. App. 3d 815, 819, 910 N.E.2d 592, 596 (2009).

¶ 68 Defendant relies, in large part, on the First District's decision in *People v. Flores*, 2014 IL App (1st) 121786, 21 N.E.3d 1227. We find that case readily distinguishable. There, in concluding the defendant's right to remain silent was not scrupulously honored, the appellate court found as follows:

> "[A]fter giving defendant his rights, the detective told defendant that a codefendant had made statements against defendant and asked if defendant wanted to talk to the detectives about that, and defendant responded, ' " 'Not really. No.' " ' The detective did not cease interrogation at that point, but continued to tell defendant that the codefendant has made incriminating statements about defendant and to ask questions. Moreover, defendant continued to voice his desire to remain silent. A short time later, defendant shook his head indicating no and said 'no,' when asked if he had anything to say about the gun. Less than three minutes later, defendant said he was not 'gonna say nothing about nothing.' The detective continued to question defendant, telling him that they just

wanted to get his 'side of the story.' " *Flores*, 2014 IL App (1st) 121786, ¶ 44, 21 N.E.3d 1227.

¶ 69 In contrast to the facts in *Flores*, the trial court here found Greenwood and defendant discussed many topics, including family, religion, and the emotions defendant was feeling. Other than the initial question about where the murder took place, the court stated it "did not hear an occasion wherein Greenwood asked any questions about the night in question." Instead, "during the conversations about other matters, the defendant began discussing the incident in question without being prompted to by Greenwood." The court found Greenwood "never led the defendant back to the night in question" and defendant "at his own choosing began discussing" what happened.

¶ 70 In requiring a police officer to administer the *Miranda* warnings prior to interrogating a suspect in custody, the Supreme Court sought to protect individuals from being coerced into confessing without knowledge of their rights. See *Miranda*, 384 U.S. at 458-70; see also *United States v. Washington*, 431 U.S. 181, 187 (1977) (stating that, "far from being prohibited by the Constitution, admissions of guilt by wrongdoers, if not coerced, are inherently desirable"). " 'Interrogation,' as conceptualized in the *Miranda* opinion, must reflect a measure of compulsion above and beyond that inherent in custody itself." *Innis*, 446 U.S. at 300; see also *Berkemer v. McCarty*, 468 U.S. 420, 437 (1984) ("Fidelity to the doctrine announced in *Miranda* requires that it be enforced strictly, but only in those types of situations in which the concerns that powered the decision are implicated.").

¶ 71 Here, defendant has not shown Greenwood continued to interrogate him about the murder after the invocation of his rights. Defendant spoke freely and without being coerced. As

defendant failed to show statements were obtained in violation of his *Miranda* rights, we find the trial court did not err in denying his motion to suppress.

¶ 72 B. Involuntary Manslaughter Instruction

¶ 73 Defendant argues the trial court erred in denying his request for an involuntary manslaughter instruction, even though the defense presented expert medical testimony supporting a finding that defendant acted with a reckless mental state. We disagree.

¶ 74 The test for determining whether a defendant is entitled to a jury instruction on a lesser-included offense is whether there is some evidence in the record that, if believed by the jury, will reduce the crime charged to a lesser offense. *People v. McDonald*, 2016 IL 118882, ¶ 25, 77 N.E.3d 26. On appeal, the trial court's decision to deny a defendant's request for a certain jury instruction is reviewed under the abuse-of-discretion standard. *McDonald*, 2016 IL 118882, ¶ 42, 77 N.E.3d 26. An abuse of discretion will be found "where the trial court's decision is arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it." *McDonald*, 2016 IL 118882, ¶ 32, 77 N.E.3d 26.

¶ 75 First degree murder occurs when an individual "either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or *** he knows that such acts create a strong probability of death or great bodily harm to that individual or another." 720 ILCS 5/9-1(a)(1), (2) (West 2012). "A person who unintentionally kills an individual without lawful justification commits involuntary manslaughter if his acts whether lawful or unlawful which cause the death are such as are likely to cause death or great bodily harm to some individual, and he performs them recklessly ***." 720 ILCS 5/9-3(a) (West 2012).

¶ 76 "The difference between first degree murder and involuntary manslaughter lies in

the defendant's mental state." *McDonald*, 2016 IL 118882, ¶ 51, 77 N.E.3d 26; see also *People v. Robinson*, 232 Ill. 2d 98, 105, 902 N.E.2d 622, 626 (2008) ("Involuntary manslaughter requires a less culpable mental state than first degree murder and is therefore a lesser-included offense of first degree murder."). "First degree murder may be committed either intentionally or knowingly, whereas involuntary manslaughter is committed unintentionally but recklessly." *People v. Maggio*, 2017 IL App (4th) 150287, ¶ 37, 80 N.E.3d 72.

¶ 77 A person acts intentionally "when his conscious objective or purpose is to accomplish that result or engage in that conduct." 720 ILCS 5/4-4 (West 2012). "A person acts recklessly when he 'consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow *** and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.' " *People v. Perry*, 2011 IL App (1st) 081228, ¶ 29, 962 N.E.2d 491 (quoting 720 ILCS 5/4-6 (West 2004)).

¶ 78 "In general, a defendant acts recklessly when he is aware that his conduct might result in death or great bodily harm, although that result is not substantially certain to occur. [Citations.] Reckless conduct generally involves a lesser degree of risk than conduct that creates a strong probability of death or great bodily harm." *People v. DiVincenzo*, 183 Ill. 2d 239, 250, 700 N.E.2d 981, 987 (1998), *abrogated on other grounds by McDonald*, 2016 IL 118882, ¶¶ 23-25, 77 N.E.3d 26.

> "Although not dispositive, certain factors may suggest whether a defendant acted recklessly and whether an involuntary manslaughter instruction is appropriate. These include: (1) the disparity in size and strength between the defendant and the victim; (2) the brutality and duration of the beating, and the severity of the

victim's injuries; and (3) whether a defendant used his bare fists or a weapon, such as a gun or a knife. In addition, an involuntary manslaughter instruction is generally not warranted where the nature of the killing, shown by either multiple wounds or the victim's defenselessness, shows that defendant did not act recklessly." *Perry*, 2011 IL App (1st) 081228, ¶ 30, 962 N.E.2d 491.

¶ 79 Our inquiry is whether there is "some evidence" to show defendant acted recklessly, thereby justifying an instruction on the offense of involuntary manslaughter. Defendant argues he provided evidence of his recklessness through the testimony of Dr. Hake and Skippy Coffman. Dr. Hake, a neurological expert, evaluated defendant and reviewed his medical records showing he suffered a traumatic brain injury in 2010. He stated the injury caused residual scarring in defendant's frontal lobe, which controls executive functioning, decision-making, emotion regulation, and muscle movement. He also stated alcohol can worsen frontal-lobe injuries related to impulse control. Dr. Hake opined defendant's injury could have impaired his ability to control his impulses. Skippy testified she believed defendant had a traumatic brain injury and warned Dennis about defendant's use of alcohol. Also, defendant suggests his actions in calling 9-1-1 after the murder and instructing a witness to tell the dispatcher to send an ambulance evince a reckless mental state warranting an instruction on involuntary manslaughter.

¶ 80 We find the trial court did not abuse its discretion in denying defendant's request for an involuntary manslaughter instruction. See *People v. Mulvey*, 366 Ill. App. 3d 701, 711, 853 N.E.2d 68, 76 (2006) (stating "we may affirm the trial court on any basis that is supported

by the record"). Defendant does not cite any authority that his brain injury, sensitivity to alcohol, and his actions in calling 9-1-1 indicate he acted recklessly rather than intentionally. As in *McDonald*, 2016 IL 118882, ¶ 57, 77 N.E.3d 26, defendant "was not merely swinging the knife recklessly in [the victim's] direction." Instead, he stabbed Dennis 16 times, with many of the wounds inflicted in the chest and neck region, while Dennis was driving down the interstate. Dr. Stacy's autopsy revealed a "sharp force injury" that "went into the fourth cervical vertebral body," an injury that "requires quite a bit of force to go into bone." Another wound went through the sternum and into the right ventricle of the heart. Nothing indicates defendant engaged in reckless or unintentional conduct. On the contrary, when an individual intentionally and repeatedly stabs another person in the chest and neck with a knife, great bodily harm is substantially certain to occur. As a result, defendant did not engage in reckless conduct in this case, and the trial court did not abuse its discretion in denying defendant's request for an involuntary manslaughter instruction.

¶ 81 C. Defendant's Prison Sentence

¶ 82 Defendant argues his 45-year prison sentence is excessive in light of his rehabilitative potential. We disagree.

¶ 83 The Illinois Constitution mandates "[a]ll penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship." Ill. Const. 1970, art. I, § 11. " 'In determining an appropriate sentence, a defendant's history, character, and rehabilitative potential, along with the seriousness of the offense, the need to protect society, and the need for deterrence and punishment, must be equally weighed.' " *Hestand*, 362 Ill. App. 3d at 281, 838 N.E.2d at 326 (quoting *People v. Hernandez*, 319 Ill. App. 3d 520, 529, 745 N.E.2d 673, 681 (2001)). However, "a defendant's rehabilitative

potential and other mitigating factors are not entitled to greater weight than the seriousness of the offense." *People v. Shaw*, 351 Ill. App. 3d 1087, 1093-94, 815 N.E.2d 469, 474 (2004).

¶ 84 With excessive-sentence claims, this court has explained appellate review of a defendant's sentence as follows:

> "A trial court's sentencing determination must be based on the particular circumstances of each case, including factors such as the defendant's credibility, demeanor, general moral character, mentality, social environment, habits, and age. [Citations.] Generally, the trial court is in a better position than a court of review to determine an appropriate sentence based upon the particular facts and circumstances of each individual case. [Citation.] Thus, the trial court is the proper forum for the determination of a defendant's sentence, and the trial court's decisions in regard to sentencing are entitled to great deference and weight. [Citation.] Absent an abuse of discretion by the trial court, a sentence may not be altered upon review." (Internal quotation marks omitted.) *People v. Price*, 2011 IL App (4th) 100311, ¶ 36, 958 N.E.2d 341 (quoting *People v. Hensley*, 354 Ill. App. 3d 224, 234-35, 819 N.E.2d 1274, 1284 (2004), quoting *People v. Kennedy*, 336 Ill. App. 3d 425, 433, 782 N.E.2d 864, 871 (2002)).

¶ 85 When a sentence falls within the statutory range of sentences possible for a particular offense, it is presumed not to be arbitrary. *People v. Moore*, 41 Ill. App. 3d 3, 4, 353

N.E.2d 191, 192 (1976). An abuse of discretion will not be found unless the trial court's sentencing decision is "arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." *People v. Etherton*, 2017 IL App (5th) 140427, ¶ 26, 82 N.E.3d 693. Also, an abuse of discretion will be found "where the sentence is 'greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense.' " *People v. Alexander*, 239 Ill. 2d 205, 212, 940 N.E.2d 1062, 1066 (2010) (quoting *People v. Stacey*, 193 Ill. 2d 203, 210, 737 N.E.2d 626, 629 (2000)).

¶ 86 In the case *sub judice*, the jury found defendant guilty of first degree murder, which generally carries a sentencing range of 20 to 60 years in prison. 730 ILCS 5/5-4.5-20(a) (West 2012). As the trial court's sentence of 45 years in prison was within the relevant sentencing range, we will not disturb the sentence absent an abuse of discretion.

¶ 87 At the sentencing hearing, the State presented evidence of defendant's extensive criminal history involving violence, including (1) a tribal conviction on two counts of aggravated assault and one count of intoxication by a minor in 2004, (2) a tribal conviction for disorderly conduct in 2007, (3) a tribal conviction for criminal damage to property in 2007, (4) a tribal conviction on three counts of aggravated assault with a wooden pole in 2008, and (5) an Arizona conviction for aggravated assault involving a deadly weapon in 2010. In regard to the 2010 case, the probation officer commented that defendant " 'has a history of assaultive behavior and the present offense is a continuation of violent behavior' " and then concluded defendant should be " 'viewed as a danger to the community.' " There was also evidence that defendant had threatened to stab his half-sister, Tammy Coffman, to death in 2005, pulled out a knife on a drug dealer in 2010, and was the suspect in a 2011 stabbing.

¶ 88 The trial court indicated it considered the presentence report, the statements of the witnesses, defendant's statement in allocution, and the arguments of counsel. The court noted "some gang involvement" in defendant's life and he had his first traumatic brain injury in 2002 after being involved in a fight where he was hit in the head with a bottle. The court found defendant's "impulsivity and the inability to control it" had a lot to do with alcohol. He suffered another brain injury in 2010 which, according to the court, "he was lucky to survive," but he "came out of that with much less impulse control than he had even before that." In considering the medical reports, the court found defendant's PTSD helped explain some of what occurred on the night of the murder.

¶ 89 As aggravating factors, the trial judge found defendant's conduct caused or threatened serious harm, he had a violent criminal history, and a sentence sufficient to deter others was necessary. As mitigating factors, the judge mentioned the cost of incarceration to the State and defendant's children. The judge stated as follows:

> "Here's what I know: I know that, assuming Dr. Killian is correct, that [defendant] has PTSD, that makes him hypervigilant and thinks that people are against him, that he has a traumatic brain injury that causes him to have very little impulse control, that that is enhanced by the use of alcohol, which he cannot control, and I don't see anything that tells me it's going to get better."

Considering defendant is "a dangerous man" and "the risk to the public is great," the judge sentenced him to 45 years in prison.

¶ 90 In his brief, defendant argues the trial court "should have considered the PTSD evidence demonstrative of rehabilitative potential" and since "PTSD is a treatable mental illness," the court "erred in imposing a sentence that was 25 years over the minimum."

¶ 91 "Where mitigating evidence has been presented, it is presumed that the trial court considered it." *People v. Lundy*, 2018 IL App (1st) 162304, ¶ 24, 118 N.E.3d 1246. However, "the existence of mitigating factors does not obligate the trial court to reduce a sentence from the maximum allowable." *People v. Williams*, 317 Ill. App. 3d 945, 955-56, 742 N.E.2d 774, 783 (2000). Moreover, "a defendant's rehabilitative potential and other mitigating factors are not entitled to greater weight than the seriousness of the offense." *Shaw*, 351 Ill. App. 3d at 1093-94, 815 N.E.2d at 474; see also *People v. Malin*, 359 Ill. App. 3d 257, 265, 833 N.E.2d 440, 447 (2005) (stating the sentencing court is not obligated to place greater weight on mitigating factors "than on the need to deter others from committing similar crimes").

¶ 92 Here, the only evidence defendant offers to support his claim that his PTSD demonstrates his rehabilitative potential is testimony provided by Skippy Coffman, his half-sister who "worked with a lot of individuals with traumatic brain injuries and how *** we bring them back when they have their PTSD episodes." However, along with the fact she was not testifying as an expert on PTSD, Skippy had not had any contact with defendant for 10 years prior to the summer of 2014, and with respect to defendant's living situation, Skippy only had contact with him for two weeks prior to Dennis's death. "[I]nformation about a defendant's mental or psychological impairment is not inherently mitigating" (*People v. Tenner*, 175 Ill. 2d 372, 382, 677 N.E.2d 859, 864 (1997)), and Skippy's lay opinion failed to offer competent evidence regarding defendant's PTSD and his rehabilitative potential. Moreover, the court did not find defendant lacked rehabilitative potential. Instead, the court found defendant's alcoholism and his

by the record"). Defendant does not cite any authority that his brain injury, sensitivity to alcohol, and his actions in calling 9-1-1 indicate he acted recklessly rather than intentionally. As in *McDonald*, 2016 IL 118882, ¶ 57, 77 N.E.3d 26, defendant "was not merely swinging the knife recklessly in [the victim's] direction." Instead, he stabbed Dennis 16 times, with many of the wounds inflicted in the chest and neck region, while Dennis was driving down the interstate. Dr. Stacy's autopsy revealed a "sharp force injury" that "went into the fourth cervical vertebral body," an injury that "requires quite a bit of force to go into bone." Another wound went through the sternum and into the right ventricle of the heart. Nothing indicates defendant engaged in reckless or unintentional conduct. On the contrary, when an individual intentionally and repeatedly stabs another person in the chest and neck with a knife, great bodily harm is substantially certain to occur. As a result, defendant did not engage in reckless conduct in this case, and the trial court did not abuse its discretion in denying defendant's request for an involuntary manslaughter instruction.

¶ 94 III. CONCLUSION

¶ 95 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $75 statutory assessment against defendant as costs of this appeal.

¶ 96 Affirmed.